IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No. 327 of 1995
DATE OF DECISION: 7.8.2007

The Commissioner of Income-tax, Patiala

…Applicant

Versus

M/s Swaraj Mazda Ltd., Chandigarh

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. S.K. Garg Narwana, Advocate,
for the applicant-revenue.

Mr. Prakul Khurana, Advocate,
for the respondent-assessee.

M.M. KUMAR, J.

At the instance of the revenue the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal') has referred the following questions of law under Section 256(1) of the Income-tax Act, 1961 (for brevity, 'the Act'), which is stated to have emerged from I.T.A. No. 1740/Chandi/1991 from its order dated 22.9.1992, in respect of the assessment year 1990-91:-

1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in remanding back the order of the CIT (A) to be

decided afresh in terms of the decision of the ITAT reported at 31 ITD 305?

2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that rectification U/s 154(1)(b) was also possible when the assessee did not file the necessary evidence in support of deductions exemptions claimed as required u/s 43B of the Act?

Without going into the facts of the instant case it is apposite to mention here that when connected I.T.R. No. 316 of 1995, wherein similar questions of law have been referred to this Court for opinion, came up for hearing on 10.7.2007, learned counsel for the revenue sought a short adjournment to enable him to find out as to whether the revenue has filed any appeal under Section 260-A of the Act in this Court against the order passed in I.T.A. No. 890/Chandi/1993 in respect of assessment year 1990-91 and ITA No. 1330/Chandi/1994 in respect of assessment year 1991-92, decided on 11.5.2001 by the Tribunal in the case of the respondent-assessee.

At the resumed hearing today, learned counsel for the revenue has apprised us that no appeal against the order dated 11.5.2001, passed by the Tribunal in I.T.A. No. 890/Chandi/1993 in respect of assessment year 1990-91 and ITA No. 1330/Chandi/1994 in respect of assessment year 1991-92, has been preferred. He has also placed on record a letter dated 30.7.2007 addressed by the Assistant Commissioner of Income-tax, Circle 4(1), Chandigarh, in the said case.

Mr. Garg has further stated that the order, after remand, passed in pursuance to the order under challenge in this reference (order dated 22.9.1992 in ITA No. 1740/Chandi/1991) has been accepted by the revenue. Therefore, we find that to decide the questions of law raised in this reference has been rendered academic. Accordingly, we return the reference unanswered.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

August 7, 2007
Pkapoor